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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/644,139	08/19/2003	James Arthur Fisher	TUC920030072US1	6485
45216	7590	10/26/2007	EXAMINER	
Kunzler & McKenzie			MCLEAN MAYO, KIMBERLY N	
8 EAST BROADWAY			ART UNIT	PAPER NUMBER
SUITE 600			2187	
SALT LAKE CITY, UT 84111				
MAIL DATE		DELIVERY MODE		
10/26/2007		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/644,139	FISHER ET AL.	
	Examiner Kimberly N. McLean-Mayo	Art Unit 2187	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 19 September 2007.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-7, 9, 10, 12-15, 17-21, 23-26, 28 and 30-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-6, 10, 12-15, 17, 19-21, 23-26, 28, 30, 31, 34 and 35 is/are rejected.
- 7) Claim(s) 7, 9, 18, 32, 33 and 36 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.	5) <input type="checkbox"/> Notice of Informal Patent Application
	6) <input type="checkbox"/> Other: _____.

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on September 19, 2007 has been entered.

### ***Claim Objections***

2. Claim 23 is objected to because of the following informalities: Claim 23 depends on canceled claim 22. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 4-6, 10, 12-15, 19, 23-24, 28 and 30-31 and 34-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carlson (5,544,304) in view of Meyer et al. (PGPUB: US 2002/0188711).

Regarding claims 1 and 31, Carlson discloses a communication module configured to receive a directive to transition library management functions from a first library manager to a second library manager, wherein the communications module is further configured to communicate with the first library manager, the second library manager, and the host (C 4, L 10-13; the software/hardware in the library system which detects a failure and initiates an error recovery procedure [switchover], the library system communicates with the host via command source, Figures 1 and 3); a control module configured to direct the first library manager to reject data transaction commands while maintaining the storage device in a state responsive to data transactions actions (C 4, L 42-54; C 3, L 30-61; the control module directs the first library manager to go off-line, thereby effectuating the rejection of data transaction commands; the storage device is maintained in a state responsive to data transactions actions via processing of the data transactions by the second library manager); to suspend the library management function of the first library (C 4, L 44-45) and activate the library management function of the second library manager (C 4, L 42-43). Carlson does not disclose directing the first library manager to reject data transaction commands except for a specified data transaction command while maintaining a storage device in a state responsive to data transactions commands of the specified data transaction command type during the transition of library management functions from the first library to the second library manager. However, Meyer teaches the concept of rejecting data transaction commands except for a specified data transaction command type {current

requests/previosuly accepted request} while maintaining a storage device in a state responsive to data transactions commands of the specified data transaction command type during the transition of management functions from the first device to the second device (sections 0382-0384; when the failover set transitions to offline, new commands are effectively rejected], while current requests are processed). This feature taught by Meyer provides efficiency by allowing the completion of pending commands without off loading the work to another device. Hence, it would have been obvious to one of ordinary skill in the art to include Meyer's teachings with the system taught by Carlson for the desirable purpose of efficiency.

Regarding claim 4, Carlson discloses the first library manager is configured to store an accepted data transaction command (C 3, L 6-51; C 5, L 39-41).

Regarding claim 5, Carlson discloses the first library manager is configured to execute a previously accepted data transaction command (C 4, L 51-54).

Regarding claim 6, Carlson discloses the control module is configured to terminate the processing of the previously accepted data transaction command (C 4, L 10-13, L 42-45; when the manager/controller fails during processing of a previously accepted command the processing of the command is terminated).

Regarding claims 10 and 15, Carlson discloses a storage device responsive to a first library manager and a second library manager, wherein the storage device retrieves and stores data

(Figure 3; library); and a transition module configured to receive a directive for a library manager transition; command the first library to reject data transaction commands and maintain the storage device responsive to data transaction commands (C 4, L 42-54; C 3, L 30-61; the control module directs the first library manager to go off-line, thereby effectuating the rejection of data transaction commands; the storage device is maintained in a state responsive to data transactions actions via processing of the data transactions by the second library manager) and command the second library manager to receive data transaction commands [this occurs when the second [standby] manger is activated (C 4, L 42-43). Carlson does not disclose commanding the first library manager to reject data transaction commands except for a specified data transaction command while maintaining a storage device in a state responsive to data transactions commands of the specified data transaction command type during the transition of library management functions from the first library to the second library manager. However, Meyer teaches the concept of rejecting data transaction commands except for a specified data transaction command type {current requests/Previously accepted request} while maintaining a storage device in a state responsive to data transactions commands of the specified data transaction command type during the transition of management functions from the first device to the second device (sections 0382-0384; when the failover set transitions to offline, new commands are effectively rejected], while current requests are processed). This feature taught by Meyer provides efficiency by allowing the completion of pending commands without off loading the work to another device. Hence, it would have been obvious to one of ordinary skill in the art to include Meyer's teachings with the system taught by Carlson for the desirable purpose of efficiency.

Regarding claims 12, 19, 24 and 34-35, Carlson discloses means for managing a data transaction command and completing a data transaction command (C 3, L 32-33; Figure 2, References 12, 14); means for rejecting a data transaction command and maintaining the completing means responsive to data transaction commands (C 4, L 42-54; C 3, L 30-61; the control module directs the first library manager to go off-line, thereby effectuating the rejection of data transaction commands; the storage device is maintained in a state responsive to data transactions actions via processing of the data transactions by the second library manager); means for suspending the library management functions of a first managing means (C 4, L 44-45); and means for activating the library management functions of a second managing means (C 4, L 42-43).

Additionally, regarding claim all hardware devices are controlled/managed by software and thus it is evident that Carlson discloses software to effectuate the above features via the hardware. Carlson does not disclose means for rejecting data transaction commands except for a specified data transaction command and means for maintaining the competing means responsive to data transaction commands of the specified data transaction command type. However, Meyer teaches the concept of rejecting data transaction commands except for a specified data transaction command type {current requests/Previously accepted request} while maintaining a storage device in a state responsive to data transactions commands of the specified data transaction command type during the transition of management functions from the first device to the second device (sections 0382-0384; when the failover set transitions to offline, new commands are effectively rejected], while current requests are processed). This feature taught by Meyer provides efficiency by allowing the completion of pending commands without off loading the

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work to another device. Hence, it would have been obvious to one of ordinary skill in the art to include Meyer's teachings with the system taught by Carlson for the desirable purpose of efficiency.

Claims 13 and 24 are rejected for the same rationale applied to claim 4 above.

Claim 14 is rejected for the same rationale applied to claim 5 above.

Claims 23 and 30 are rejected for the same rationale applied to claim 6 above.

5. Claims 2-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carlson (USPN: 5,544,304) in view of Meyer (PGPUB: US 2002/0188711) as applied to claim 1 above and further in view of Carlson PGPUB: US 2003/0217078).

Carlson ('304) and Meyer disclose the limitations cited above, however, Carlson does not disclose a timing module configured to receive a timeout directive and to initiate a timeout period, wherein the control module is configured to suspend the library management function of the first library manager responsive to the completion of the timeout period. Carlson ('078) discloses a timing module configured to receive a timeout directive and to initiate a timeout period. This features taught by Carlson ('078) provides improved performance by providing maintenance to the system at optimal time. In Carlson's ('304) system, database maintenance is performed only when a failure occurs. However, the system could benefit by performing maintenance at other times, such as when the first library manager is operating slow, etc. Hence, it would have been obvious to one of ordinary skill in the art to include Carlson's ('078) teachings in the system taught by Carlson ('304) and Meyer such that the system includes a

timing module configured to receive a timeout directive and to initiate a timeout period, wherein the control module is configured to suspend the library manager of the first library manager responsive to the completion of the timeout period the desirable purpose of improved performance.

6. Claims 17, 20-21 and 25-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carlson (USPN: 5,544,304) and Meyer (PGPUB; US 2002/0188711) and further in view of in view of Matsunami et al. (USPN: 6,006,308).

Regarding claims 17, 20-21 and 25-26, Carlson and Meyer disclose the limitations cited above, however, Carlson does not disclose notifying a host computer that the library manager transition is in process or that the transition process has completed. Matsunami discloses notifying a host computer that the library manager transition is in process (C 13, L 12-21; when the library controller fails, the host is notified and a transition/substitution is performed, thus whenever a library controller fails, the system begins the transition process and thus is notified of such when a failure occurs) and that the process has completed (C 13, L 12-21; when the substitution is complete, the host is able to determine that the process is complete since the host provides this information to the RAIL controller). This feature enhances reliability by alerting the host of the status. In Carlson system, if both controllers were to fail, the host would not be informed of such and the system would not be able to recover from such an event. Hence, it would have been obvious to one of ordinary skill in the art to notify the host in the system taught by Carlson and Meyer of a library transition for the desirable purpose of increased reliability.

***Allowable Subject Matter***

7. Claims 7, 9, 18, 32-33 and 36 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

8. Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

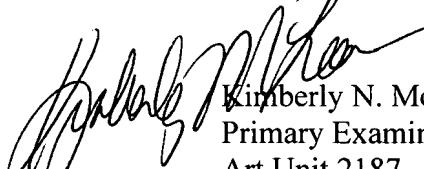
***Conclusion***

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kimberly N. McLean-Mayo whose telephone number is 571-272-4194. The examiner can normally be reached on Monday-Friday (10-6:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Donald Sparks can be reached on 571-272-4201. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Kimberly N. McLean-Mayo  
Primary Examiner  
Art Unit 2187  
**KIMBERLY MCLEAN-MAYO**  
**PRIMARY EXAMINER**

KNM

October 18, 2007